

JUL 12 2018

ALASKA JUDICIAL COUNCIL

Alaska Judicial Council Application for Judicial Appointment

Position(s) for which you wish to be considered:

Juneau Superior CourtKenai Superior CourtDate: 7-9-18

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* Daniel J.M. Schally
 Name as it should appear on bar survey: Daniel Schally
 * Unless otherwise specified, this is how your name will appear on the bar survey.
- (b) Have you ever used or been known by any other name? If so, please identify.
Daniel J. Schally
2. How long have you been a resident of the State of Alaska immediately preceding the date of this application?**

Total	<u>20</u>	years	<u>11</u>	months
	<u>20</u>	years	<u>11</u>	months
3. How long have you been engaged in the active practice of law immediately preceding the date of this application?**

Total	<u>20</u>	years	<u>11</u>	months
	<u>20</u>	years	<u>11</u>	months

Nonlegal Education

4. State names and dates of attendance of all colleges and professional schools (other than law schools) ever attended and degrees and dates conferred. List any honors.

University of Minnesota - Duluth, 1986-87
 University of Minnesota - Minneapolis, 1987 - 90; B.A. History, 1990
 University of Minnesota - Graduate School - Minneapolis, 1990-91

** See AS 22.10.090; see also 1984 Inf. Op. Atty. Gen. (July 19; 366- 624-84).

Legal Education

5. List all law schools, dates attended and degrees conferred. If you did not receive a degree from any law school, please indicate.

University of Minnesota Law School - Minneapolis, 1994-97; J.D. 1997

6. (a) Did you receive any honors in law school or belong to any honorary societies or groups?
☒ Yes ☐ No If yes, please give details.

Graduated cum laude

- (b) Have you taken any CLE (continuing legal education) courses during the past five years?
☒ Yes ☐ No

Please describe or list. Please do not attach individual certificates of attendance.

Annual Alaska Judicial Conferences
Annual Alaska Bar Association Conventions
National Judicial College courses, 2017, 2014, 2013, 2009, 2007, 2005

Military

7. Have you served in the armed forces (reserves or otherwise)? ☐ Yes ☒ No
If so, please provide the following information:

- (a) Dates of service: _____
(b) Branch of service: _____
(c) Rank at time of discharge: _____
(d) Type of military discharge: _____
(e) Awards or citations:

- (f) Have you ever been refused admission to or released from any of the armed services for reasons other than honorable discharge? ☐ Yes ☒ No If so, state the details.

Nonlegal Employment

8. Describe major nonlegal working experience. If you had a business or association that has been discontinued, please note whether there are unpaid debts or claims pending litigation.

West Publishing Company, 1987-92 (mostly part time to pay for school)
Minneapolis Police Department, 1992-94

Legal Experience

9. Describe chronologically your legal employment since admission to law school. **Please provide dates and location of employment, name of employer, name AND CURRENT ADDRESS OF supervisor or person who can verify AND COMMENT ON YOUR employment, the reason you left the position, and a brief description of type of practice (i.e., insurance defense, criminal, appellate, general, litigation, etc.) for each position listed below.** IF YOU ARE CURRENTLY A TRIAL COURT JUDGE, PLEASE LIST YOUR PRESIDING JUDGE. FOR PAST JUDGESHIPS, PLEASE LIST THE JUDGE WHO LAST PRESIDED DURING YOUR TIME ON THE BENCH.

The Council will ask for comments from your current and former employers about your employment and your judicial qualifications. You may choose to list other persons as character and professional references in response to Question 20 of this application.

If the supervisor or contact person asks (in writing) that the letter be shared with the governor, the Council will send designated letters for each nominee. The applicant should not request a copy of the letter from the reference. References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

Current Employer: Alaska Court System

Supervisor or name of contact person who can verify employment: Presiding Judge William Morse

Current address of this person: 825 West Fourth Avenue

City Anchorage State AK Zip 99501

Dates and location of Employment: From Feb 2005 To current City Valdez State AK

Description:

District Ct Judge & Superior Ct Judge pro tempore throughout 3rd Jud District, primarily Valdez, Glennallen, Cordova (previously Sand Pt, Dillingham, Nome, etc.)

Previous Employers: *(In chronological order, most recent first)*

Employer: State of Alaska, Department of Law, Ketchikan District Attorney's Office

Supervisor or name of contact person who can verify employment: Presiding Judge Trevor N. Stephens

Current address of this person: 415 Main Street

City Ketchikan State AK Zip 99901

Dates and Location of Employment: From Aug 1998 To Feb 2005 City Ketchikan State AK

Description: Asst DA for Ketchikan, Prince of Wales Island, Wrangell. Prosecuted every type & description of criminal case, including appeals

Reason for Leaving: appointment to current position

Employer: Alaska Court System

Supervisor or name of contact person who can verify employment: Judge Donald D. Hopwood (ret.)

Current address of this person: 11556 Tanglewood Lakes Circle

City Anchorage State AK Zip 99516

Dates and Location of Employment: From Aug 1997 To Aug 1998 City Kodiak State AK

Description: Superior Court Law Clerk

Reason for Leaving: one year position; hired into Ketchikan DA's Office

Previous Employers (continued)

Employer: City & Borough of Juneau Law Department
Supervisor or name of contact person who can verify employment: John Leque, John Hartle
Current address of this person: 155 South Seward
City Juneau State AK Zip 99801
Dates and Location of Employment: From May 1996 To Aug 1996 City Juneau State AK
Description: CBJ summer prosecution intern between second & third years of law school
Reason for Leaving: summer position only

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates and Location of Employment: From _____ To _____ City _____ State _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates and Location of Employment: From _____ To _____ City _____ State _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates and Location of Employment: From _____ To _____ City _____ State _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates and Location of Employment: From _____ To _____ City _____ State _____
Description: _____
Reason for Leaving: _____

10. During your legal career, please indicate (approximately) the following:

- | | | | |
|-----|------------------------------------|----------|-----------------------------|
| (a) | Percent of your practice that was: | Civil | 45 |
| | | Criminal | 45 |
| | | Other | 10 |
| | | | <u> </u>
= 100% |

Comment: difficult to blend numbers from various courts I serve

- | | | | |
|-----|----------|---------|--------------|
| (b) | Percent: | State | 100 |
| | | Federal | _____ |
| | | Other | _____ |
| | | | _____ = 100% |

Comment:

- | | | | |
|-----|---------------------------------------|------------------|--------|
| (c) | Of practice in state courts, percent: | Supreme Court | _____ |
| | | Court of Appeals | _____ |
| | | Superior Court | 50 |
| | | District Court | 50 |
| | | | = 100% |

Comment: difficult to blend numbers from various courts I serve

- (d) Frequency of appearance in court:
☒ Regularly ☐ Occasionally ☐ Infrequently ☐ Not at All
 Comment: daily, including weekend & holiday duty

- (e) Number of trials (by court or jury) you conducted:
☐ None ☐ 1-5 ☐ 6-15 ☐ 16-30 ☒ 31 or more
 Comment: presided over 72 jury trials, many dozens of non-jury trials

- (f) Percent of these trials which were: Jury _____ Non-Jury _____
Comment: unknown

- (g) Approximate number of appellate matters handled: unknown
 Comment: unknown; includes administrative appeals, appeals from dist ct

- (h) Approximate number of arbitrations or administrative hearings:
☐ None ☐ 1-5 ☒ 6-15 ☐ 16-30 ☐ 31 or more

Briefly describe type of matters heard:

oral arguments in administrative appeals

- (i) Please briefly summarize any *pro bono* work that you have done and indicate whether the work was done through a *pro bono* legal service provider (e.g. Alaska Legal Services, Alaska Network on Domestic Violence and Sexual Assault, etc.).

|N/A

11. List all the courts and administrative tribunals in the United States or elsewhere to which you are or have been admitted to practice, and the dates of admission.

Alaska 1997
 Minnesota 1998
 Washington 2004
 U.S. District Court for Alaska 2004

Public Service

12. List bar associations, and sections and committees of which you are or have been a member or officer.

Alaska Bar Association
 Ketchikan Bar Association
 Valdez Bar Association
 Coastal Judges Association (Alaska)
 Washington State Bar Association
 Minnesota Bar Association

13. List legal publications, if any (give title, subject and date of publications). Please include publications you have co-authored and the name(s) of the co-author(s).

N/A

14. Have you ever applied for a judgeship? ☒ Yes ☐ No
 Please list dates and judgeships applied for, as well as whether you were nominated by the Judicial Council and appointed.

Judgeship	Date	Nominated By Council (Y/N)	Appointed By Governor (Y/N)
Valdez	2004	Y	Y
Homer	2004	withdrew when	appt'd to Vdz
Sitka	2007	N	N
Anchorage	2010	N	N
Juneau	2011	withdrew	
Kenai	2018	Y	N

15. Have you ever held public or political office, elective or appointive? ☒ Yes ☐ No
If so, state office, manner selected, and when and where held.

current position, appointed by Gov. Murkowski, January 2005

16. Please provide the Council with information that you would like the Council to consider about other legal and nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal organizations. Please indicate whether you participate in the organization's activities, or simply hold a membership. Your involvement in the community is one of the criteria the Council uses in its evaluations. The Council does not use affiliation with a particular group as a criterion except to the extent that it might raise questions of conflict of interest or would affect an applicant's ability to impartially apply the law.

Valdez Youth Court, volunteer instructor since 2005

KCHU Terminal Radio (Valdez), volunteer & elected board member 2008 - 2016, board president for three years

Valdez Museum & Historical Archive, member since 2005

Copper Valley Electric Assn Scholarship Committee (Valdez), 2008, 2009

KSDP Radio (Sand Point), member approx 2007 - 2011

KRBD Rainbird Radio (Ketchikan), member 1998 - 2001, volunteer & elected board member 2003 - 2005

Ketchikan Area Arts & Humanities Council, member 1998 - 2012

The Nature Conservancy, member since 1990

University of Minnesota Raptor Center, member for over 20 years

University of Minnesota Alumni Assn, Life Member

17. Indicate (Yes or No) whether you have ever:

- (a) been arrested, charged with, pled guilty or *nolo contendere* to, or been convicted of the violation of any law or ordinance, or been requested to appear before any prosecuting or investigative agency in connection with any matter in any jurisdiction, including all traffic offenses, unless the fine was less than \$50 and there were no other sanctions?
☐ Yes ☒ No
- (b) failed to answer any summons or other legal process served upon you personally at any time? ☐ Yes ☒ No
- (c) as a member of any armed forces, been the subject of any charges which may have resulted in disciplinary action or court martial? ☐ Yes ☒ No

- (d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? ☐ Yes ☒ No
If your answer is "yes" to any part of this question, state the facts in detail. Give the name and place of the court or agency, dates of the beginning and end of any action or proceeding, case numbers, and the judgment or other disposition.

18. (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? ☐ Yes ☒ No
In particular, have you been the subject of any proceeding, criminal or civil, initiated against you by the Internal Revenue Service or a State Tax Office? ☐ Yes ☒ No
If so, give particulars, including case numbers.

- (b) Have you ever been sued by a client? ☐ Yes ☒ No
If so, give particulars, including case numbers.

- (c) Have you ever been a party in any other legal proceeding? ☐ Yes ☒ No
If so, give the particulars. Include all legal proceedings in which you were a party in interest, including petitioner or respondent in dissolution or divorce proceedings; a material witness; a named co-conspirator or correspondent; and subject or witness in any grand jury proceedings. Do not list proceedings in which you were sued only in a representative capacity (e.g. guardian ad litem, or as Commissioner of Natural Resources).

19. State the nature and disposition of any of the following actions which apply to you:

- (a) Are there any unsatisfied judgments against you? ☐ Yes ☒ No
Have you ever defaulted in the performance of any court-imposed obligation, including payment of alimony or child support or compliance with another court order or decree?

☐ Yes ☒ No

In each case, list the name and address of the creditor, the court which rendered the judgment, the case number, the date, the amount of the judgment, and the circumstances on which such claim was based.

Has property owned by you been either judicially or non-judicially foreclosed?

☐ Yes ☒ No

Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure.

- (b) Have you ever made an assignment for the benefit of creditors? ☐ Yes ☒ No
Have you ever filed any petition in bankruptcy? ☐ Yes ☒ No
If so, state the circumstances, case number, and the outcome.

References and Counsel Questionnaires*

- * **Please Note:** Letters of reference from these persons are confidential and will not be given to the applicant. If the reference asks (in writing) that the letter be shared with the governor, the Council will send designated letters and counsel questionnaires for each nominee. The applicant should not request a copy of the letter from the reference. (You **should not** list the Chief Justice of the Alaska Supreme Court.)

References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

20. (a) List the names, addresses, **including zip codes**, and **phone numbers** of two persons whom the Judicial Council may contact who can discuss your general character and background.

Name: Lisa Anderson
Address: P.O. Box 2267
City/State/Zip: Valdez, AK 99686 Phone: 907-255-5016

Name: Andrea Jacobson
Address: 2321 Yorktown Circle
City/State/Zip: Anchorage, AK 99507 Phone: 907-770-9060

- (b) List the names, addresses, **including zip codes**, and **phone numbers** of three other persons whom the Judicial Council may contact who can discuss your professional competence and qualifications for a judicial position.

Name: Hon. Michael Franciosi
Address: 303 K Street
City/State/Zip: Anchorage, AK 99501 Phone: 907-264-0665

Name: Hon. Steve Cole
Address: 204 Mission Road, Room 124
City/State/Zip: Kodiak, AK 99615-7312 Phone: 907-486-1600

Name: Hon. Eric Smith (Ret.)
Address: P.O. Box 672117
City/State/Zip: Chugiak, AK 99567 Phone: 907-441-1267

References and Counsel Questionnaires (continued)

(c) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that have gone to trial. Please do not list cases pending in the trial courts. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases that have gone to trial within the past three years. Please include the judge's name and case names and numbers. (*Attach additional pages if necessary.*)

Case Number 1

Case Name: State of Alaska

Case Number: 3VA-16-116CR

v. Kimberly Hendrickson

Judge Name: Schally

Attorneys Involved:

Name: Josh Traini

Name: Eric Auten

Address: 515 E. Dahlia Ave, Suite 150

Address: P.O. Box 2717

City, State, Zip: Palmer, AK 99645-6416

City, State, Zip: Valdez, AK 99686

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Case Number 2

Case Name: State of Alaska

Case Number: 3VA-15-142CR

v. Christopher Harnden

Judge Name: Schally

Attorneys Involved:

Name: Eric Senta

Name: Devin Morse

Address: 310 K Street, Suite 601

Address: 900 W. 5th Ave, Suite 200

City, State, Zip: Anchorage, AK 99501-2064

City, State, Zip: Anchorage, AK 99501

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Case Number 3

Case Name: State of Alaska

Case Number: 2UT-15-61CR

v. Michael Lockwood

Judge Name: Schally

Attorneys Involved:

Name: John Earthman

Name: James Ferguson

Address: P.O. Box 160

Address: P.O. Box 203

City, State, Zip: Nome, AK 99762

City, State, Zip: Nome, AK 99762

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

20(c) References (continuation from Page 12)

Susanne DiPietro previously advised me that when the three most recent trials involve the same attorneys, that I should list three recent trials with different attorneys. I have done that.

References and Counsel Questionnaires (continued)

(d) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that did not go to trial but in which you did significant work. Please do not list cases pending in the trial courts. (Applicants who are currently judges should list the three most recent cases they presided over that did not go to trial but in which they did significant work.) Please include the judge's name and case names and numbers. (*Attach additional pages if necessary.*)

Case Number 1

Case Name: State of Alaska

Case Number: 3CO-16-28CR

v. Joshua Donaldson

Judge Name: Schally

Attorneys Involved:

Name: Krista Anderson

Name: Ariel Toft

Address: 515 E. Dahlia Ave, Suite 150

Address: 900 W. 5th Ave, Suite 525

City, State, Zip: Palmer, AK 99645-6416

City, State, Zip: Anchorage, AK 99501

Name: _____

Name: Quinlan Steiner

Address: _____

Address: 900 W. 5th Ave, Suite 200

City, State, Zip: _____

City, State, Zip: Anchorage, AK 99501

Case Number 2

Case Name: Robert Dorr

Case Number: 3AN-08-10042CI

v. State of Alaska

Judge Name: Schally

Attorneys Involved:

Name: David Seid

Name: Clinton Campion

Address: P.O. Box 110216

Address: Sedor Wendlandt Evans &

City, State, Zip: Juneau, AK 99811-0216

Filippi, LLC

Name: _____

Address: _____

City, State, Zip: _____

Address: 500 L St, Suite 500

City, State, Zip: Anchorage, AK 99501

Case Number 3

Case Name: ITMO R.L.

Case Number: 3GL-17-6PR

v. _____

Judge Name: Schally

Attorneys Involved:

Name: Scott Sterling

Name: Beth Goldstein

Address: Sterling & DeArmond, PC

Address: 900 W. 5th Ave, Suite 525

City, State, Zip: Anchorage, AK 99501

Address: 851 E. Westpoint Dr

Name: Lisa Wawrzonek (Visitor)

Address: P.O. Box 220429

City, State, Zip: Wasilla, AK 99654

City, State, Zip: Anchorage, AK 99522

Writing Sample

21. Attach one example of a brief, memorandum of law, or legal opinion or similar example of legal writing (10-20 pages in length; 15-25 pages for appellate positions) prepared solely by you within the last five years. Please choose a sample that reflects your ability to do legal research and analysis. If you do not have a good sample of this length, include an excerpt from a longer writing. Make sure the sample contains sufficient facts to make it understandable. (Some reply briefs may not meet these requirements.)

Please do not submit: (a) coauthored writing samples, (b) samples with confidential information unless redacted to remove such information, (c) longer writing samples.

22. Has any **public** sanction been imposed against you in response to a complaint, charge or grievance brought against you as an attorney or a judge? ☐ Yes ☒ No
Have formal grievance procedures been brought against you? ☐ Yes ☒ No
See Bar Rule 22(b) & (e) concerning public bar grievance procedures against attorneys, and AS 22.30.011(b) and .060(b)(3) concerning public disciplinary grievance procedures against judges.
Have you ever been held in contempt of court? ☐ Yes ☒ No
Have you ever been fined or otherwise sanctioned by a judge? ☐ Yes ☒ No
In each case, state in detail the circumstances and the outcome.

Additional Comments (Non-Confidential)

23. Please make any additional comments that you wish to bring to the Council's attention about your experience and suitability for this judgeship.

A coastal Alaska resident for 21 years, I have worked in our justice system for all of them. For over 13 years I have presided over a full superior court caseload & a full district court caseload in several courts including Valdez, Glennallen, Cordova, & Sand Point. I have consistently volunteered to take on additional work at a variety of courts beyond my "home" courts, including in Dillingham & Nome. The broad diversity of cases I handle has enriched my time on the bench. I do not believe there is any type of case that I have not worked on as a judge - criminal (felonies & misdemeanors), civil (of every stripe), domestic relations, probate (of every stripe), CINA, juvenile delinquency, PCR, small claims, fish & game, minor offenses, administrative appeals, appeals of district court matters to the superior court, and presumptive death cases. I have presided over many dozens of jury trials (primarily criminal but also civil) and hundreds of non-jury trials of every stripe. I have presided over trials in Valdez, Glennallen, Cordova, Sand Point, Dillingham, Nome, and Utqiagvik (fka Barrow).

Additional Comments (Continued)

For several years I was a magistrate training judge, which gave me the opportunity to visit many courts and work with many participants in our justice system, including those within and outside of the court system. I was a training judge for magistrates in Cordova, Kenai, Palmer, Kodiak, and Seward. Throughout my time on the bench I have worked closely with magistrates in my "home" courts (Glennallen and Cordova) and in many other locations.

I have also served on the fish & game bail schedule advisory committee, the judicial conference planning committee, and currently serve on the Working Interdisciplinary Networks of Guardianship Stakeholders ("WINGS") committee, and am in the process of establishing a new committee on guardianship improvement.

The opportunity to expand on the skills I have learned in over 13 years on the bench is what draws me to apply for the Juneau and Kenai Superior Courts. I am particularly interested in the possibility of working in therapeutic courts. Working closely with colleagues would also give me the opportunity to build on my experience handling settlement conferences.

I believe that my broad range of bench experience would be of value to any court.

24. Please indicate whether you prefer to be interviewed in public session or in private session. Your choice of a public or private interview has no bearing on the Council's determination of your qualifications or on the questions the Council may ask. You may change your request in writing at any time before the interview starts.

☐ Public Interview

☒ Private Interview

25. Please prepare a brief biographical statement (***limited to 150 words***) about your background, legal education, and legal experience. Please do not list personal information about minor children. Your picture and a copy of this statement will be scanned and posted on the Council's website after the application deadline. In its bar survey, the Council will invite attorneys to review the information if they wish to become more familiar with your background and experience. Use the form on the following page for your biographical statement. Please leave the box at the top empty. The Council will use this space for your scanned picture. ***To be fair to all applicants, the Council will strictly enforce the 150 word limit.***

If you object to the posting of your picture on the Council's website, please indicate your objection below. If you object, we will not post your picture, although you still must submit five photographs of yourself with your application.

☐ If you check this box we will not post your picture on the website.

Biographical Statement

Name Daniel Schally

Position(s) for which you wish to be considered:

Juneau & Kenai Superior Courts

Please leave this area blank

Date: 7-9-18

Born in Minnesota, I first visited Alaska as an intern for the City & Borough of Juneau Law Department during law school, where I tried my first jury trial in front of then-District Court Judge Patricia Collins. After graduation I moved to Kodiak to work as a law clerk for Superior Court Judge Donald Hopwood.

Then-District Attorney Trevor Stephens hired me to work as a prosecutor in Ketchikan. My responsibilities extended to Prince of Wales Island and, occasionally, to Wrangell.

I was appointed to the bench in Valdez in January 2005 and have handled a full superior court and full district court caseload for over thirteen years.